THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.22504 OF 2006

DATED: 11-06-2007

BETWEEN

Sariki Annapurana,
D/o. Laxmana Swamy,
R/o. Mallikarjuna Nagar,
Near Mandal Office
Ramachandrapuram
Medak District and another.

...PETITIONERS

AND

Sariki Laxmana Swamy,
S/o. Narsimlu, Occ: Teacher,
R/o Jonnada Village,
Denkada Mandal,
Vizianagaram District
and two others.

...RESPONDENTS

ORDER:

Learned counsel for the petitioners submits that both the petitioners are majors and that the first petitioner fell in love with the second petitioner, they got married and they are living as husband and wife. He further submits that on the complaint of the father of the petitioner a case in Cr.No.106 of 2006 under the head 'Woman Missing' was registered by the Station House Officer, Denkada Police Station, Vizianagaram District. He further submits that the first petitioner is not at all missing but she voluntarily married the second petitioner, therefore, the aforesaid case is liable to be quashed but the police is illegally trying to implicate the second petitioner in a kidnapping

case without closing the complaint.

2. Counter has been filed stating that the police recorded the statements of the petitioners wherein they have stated that they loved each other and they are leading marital life peacefully without any hindrance. However, a request was made to record the statement of the first petitioner under Section 164 of the Code of Criminal Procedure, before the concerned Magistrate, but she refused to do so.

3. I am of the opinion that when the crime is pending, on a police requisition, the concerned Magistrate has to record the statement and the first petitioner cannot refuse to give her statement under Section 164 Cr.P.C.

4. Learned counsel for the petitioners submits that without filing a requisition the respondents seek to take the first petitioner and get her statement recorded against her will and wish, as it is the duty of the police to make a request for summoning the persons of whom they would like to record the statements.

5. Having regard to the facts and circumstances of the case and as the petitioners have already stated in their 161 Cr.P.C. statements that they love each other and leading marital life without any hindrance, there cannot be any objection to the police to file a final report. Even otherwise in the interest of the first petitioner,
the second respondent is directed to make a requisition before the concerned Magistrate for recording the statement of the first petitioner and on filing such a requisition the first petitioner is at liberty to give her statement.

The writ petition is accordingly disposed of. There shall be no order as to costs.

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V. ESWARAIAH, J

June 11, 2007
DSK